

### **302 KAR 1:080. Small grain producers referendum.**

RELATES TO: KRS 247.5061

STATUTORY AUTHORITY: KRS 247.5075

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.5075 authorizes the commissioner to establish and determine the rules and administrative regulations to conduct a referendum among the producers of small grains and small grain products for the purpose of promoting and stimulating by utilization research, market maintenance and expansion and education, the existing use and sale, domestic and foreign of small grains and small grain products.

Section 1. Definitions. As used in these rules and administrative regulations, unless the context requires otherwise:

- (1) "Board" means the State Board of Agriculture;
- (2) "Bushel" means the weight for each type of cereal grain defined by the United States Department of Agriculture;
- (3) "Commissioner" means the Commissioner of Agriculture;
- (4) "County referendum agent" means an appointed person by the Commissioner of Agriculture in a county where the small grains referendum is held, as his agent for conducting the referendum;
- (5) "Gross market price per bushel" means the payment due a producer after normal price discounts such as deductions for moisture, test weight, and foreign matter have been calculated;
- (6) "Kentucky Small Grain Growers Association" means an existing association, representative of small grain producers of Kentucky;
- (7) "Marketed" means any quantities that are sold, bartered, or for which other items of value are exchanged in the state;
- (8) "Marketing year" means the twelve (12) month period from June 1 to May 31 of the following year;
- (9) "Person" means any individual, corporation, partnership, association, or cooperative, or other business entity;
- (10) "Producer" means every person who produces and markets small grains;
- (11) "Referendum agent" means an employee of the State Department of Agriculture under the direction of the Commissioner of Agriculture;
- (12) "Small grain" means all kinds and varieties of cereal grains, such as wheat, oats, barley, rye, and triticale.

Section 2. Statewide Referendum. The small grain producers referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who may Vote. (1) Each person engaged in the production of small grains on a commercial basis, including owners of farms on which small grains are produced, and tenants and sharecroppers sharing in the proceeds of small grains shall be eligible to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of small grains is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which small grains are produced. No person who certifies to the county referendum agent that he is a producer of small grains shall be refused a ballot, but the person may be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before the ballot is counted.

Section 4. Voting Place. The commissioner shall establish a voting place in each county within

the state where producers of small grains reside. The voting place shall be in the county extension service office in each county where the referendum is conducted. If no county extension service office is located in a county where the referendum is conducted, the commissioner may designate an alternative voting place. The referendum agent shall provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area at one time. One (1) or more county referendum agents shall be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against the referendum will not be permitted in the county extension service office or referendum voting place during voting hours.

Section 5. Hours of Voting. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during that period of time or by absentee ballot as set forth in Section 6 of this administrative regulation. Voters shall be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, that a request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The written request for an absentee ballot or multiple requests for absentee ballots are not permitted. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date. Absentee ballots postmarked before midnight of the date before the referendum voting date, and received by the commissioner before the counting of votes shall be considered returned to the commissioner on or before the referendum voting date.

Section 7. Referendum Voting Date. The small grain producers referendum voting date will be set by the commissioner after certification of the referendum. The date determined for the referendum, hours and polling places, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment will be collected and the general purposes to which the assessment shall be applied will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the date of the referendum, and direct written notice of the referendum date shall be given to each county referendum agent.

Section 8. Supervision of Referendum and Duties of County Referendum Agent. The commissioner shall provide the each referendum agent with a copy of these rules and administrative regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the appropriate ballot forms, indelible marking pens, and other supplies sufficient to operate each polling place as established in Section 4 of this administrative regulation. Each prospective voter shall identify himself to the county referendum agent; and the voter will be required to sign a registration form giving his name, complete mailing address and certification of his eligibility to vote in the referendum. The registration forms shall be maintained by the county referendum agent, and returned to the commissioner with the completed ballots. Upon signing the registration form, each prospective voter will receive an approved ballot form from the county referendum agent. The official ballot, after it has been completed by the voter, shall be placed in the ballot box.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question shall show that each small grain producer is voting on whether or not the small grain producer is in favor of the collection by the Kentucky Small Grain Growers Association of

an assessment for the purposes of financing a promotional program to stimulate by utilization research, marketing maintenance and expansion, education, the increase use and sale, domestic and foreign of small grain and small grain products and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of small grains and small grain products to market. The assessment collected by the purchasers of small grain or small grain products will be sent to the Kentucky Small Grain Growers Association to be used as provided in KRS 247.5089. The assessment to be deducted from the payment for small grains delivered after June 1, 1991, in the following amount for a marketing year which is June 1 to May 31 of the following year; one-fourth (1/4) of one (1) percent of the gross marketed price per bushel.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to ensure that the information on the ballots is held in confidence. The county referendum agent shall mail to the Department of Agriculture, all marked ballots and registration books used for the referendum. The ballots and registration books shall be mailed in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of the person who voted, or the manner in which any person voted, and all information furnished to, compiled by or in the possession of the commissioner, the county referendum agent, shall be regarded as confidential. The commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's office to be used for counting the votes cast in the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Small Grain Growers Association, and any organization actively engaged in the production of small grain or small grain products in Kentucky, may each have one (1) representative present during the counting of the votes. The organization shall establish, to the satisfaction of the commissioner, that it desires to observe the counting of the ballots for a legitimate purpose.

Section 13. Announcement of Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and shipping costs, within ninety (90) days of the date of the results the referendum is announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by KRS 247.5083, shall be collected or remitted on or before the 15th day of the month following the end of the month in which the small grains are sold to the purchaser in the manner determined and announced by the association conducting the referendum.

Section 16. Subsequent Referendum. Any subsequent referendum among the producers shall be

conducted in accord with the provisions of this administrative regulation. Except that the official ballots shall show that the question to be presented to the voters is whether or not the one-fourth ( $\frac{1}{4}$ ) of one (1) percent assessment on the gross market price per bushel for small grain and small grain products in the state shall continue after the market year in which the referendum is conducted. (17 Ky.R. 2084; eff. 2-7-91.)